PROB 12C
(04/08)

June 18, 2015
pacts id: 239852

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF CALIFORNIA

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Jesus Gonzalez (English) **Dkt No.:** 11CR02164-002-AJB

Reg. No.: 25619-298

Name of Sentencing Judicial Officer: The Honorable Anthony J. Battaglia, U.S. Magistrate Judge

Original Offense: 21 U.S.C. §§ 952 and 960, and 18 U.S.C. § 2, Importation of Marijuana and Aiding and Abetting, a Class D felony.

Date of Revocation Sentence: September 6, 2013

Sentence: 60 days' custody; 2 years' supervised release *(Special Conditions: Refer to Judgment and Commitment Order.)*

Type of Supervision: Supervised Release **Date Supervision Commenced:** September 24, 2013

Asst. U.S. Atty.: Emily J. Keifer **Defense Counsel:** Michael McCabe (Appointed) 619-231-1181

Prior Violation History: Yes. See prior court correspondence.

PETITIONING THE COURT

TO ISSUE A NO-BAIL BENCH WARRANT

The probation officer believes that the offender has violated the following condition(s) of supervision:

CONDITION(S)	ALLEGATION(S) OF NONCOMPLIANCE
(Special Condition) Jesus Gonzalez, as a special condition of supervision, shall reside at and participate in a residential reentry center program, under the community corrections component, as approved by the probation officer, for a period not to exceed 180 days, pursuant to 18 U.S.C. § 3563(b)(11) and 18 U.S.C. § 3583(d).	1. On April 30, 2015, Mr. Gonzalez absconded from the Residential Reentry Center (RRC) and refused to participate in the program.
(Standard Condition) Answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer. *(mv8)*	2. On April 30, 2015, Mr. Gonzalez absconded from the Residential Reentry Center (RRC) and refused to participate in the program.

Grounds for Revocation: On April 27, 2015, Mr. Gonzalez entered an RRC facility in El Monte, California, as ordered by the Court and as directed by his supervising probation officer (This condition was ordered after Mr. Gonzalez was arrested in Los Angeles for throwing a beer bottle at his ex-girlfriend's moving vehicle while driving). On April 30, 2015 (three days later), the offender walked out of the facility and failed to return. He later told his supervising probation officer that the RRC was not going to "work for him" with regard to his employment, and stated there were "other things going on." Mr. Gonzalez declined to provide any further details about his decision and conduct. The offender said he would rather serve a custodial sentence in this matter, as determined by the Court, but requested that he not be ordered to serve any additional term of supervised release.

VIOLATION SENTENCING SUMMARY

SUPERVISION ADJUSTMENT

On September 16, 2013, Mr. Gonzalez appeared at a revocation hearing before Your Honor in response to a petition alleging his failure to report a change in his residence. The offender was sentenced to 60 days' custody, to be followed by a two-year term of supervised release. On September 24, 2013, he was released from custody and began his current term of supervised release in the Central District of California. Since that time, Mr. Gonzalez' performance on supervised release has been poor. He failed to submit monthly reports timely and consistently, failed to submit several police contacts to his probation officer, and failed to follow the instructions of the probation officer. The offender's term of supervised release is scheduled to expire on September 23, 2015.

As the Court is aware, Mr. Gonzalez was arrested on January 8, 2015, for throwing an object at his ex-girlfriend's vehicle as he pursued her in his vehicle on the highway. In Los Angeles County Superior Court, the offender was placed on summary probation for three years, was ordered to serve 30 days in county jail, and complete a domestic violence treatment program. Mr. Gonzalez had a review hearing scheduled for April 27, 2015, which he failed to appear for. A bench warrant was issued on that date, which remains outstanding, according to his supervising probation officer in the Central District of California.

OFFENDER PERSONAL HISTORY/CHARACTERISTICS

The Court is respectfully referred to the presentence report for information specific to the offender's personal history and characteristics.

SENTENCING OPTIONS

CUSTODY

Statutory Provisions: Upon the finding of a violation, the court may modify the conditions of supervision; extend the term (if less than the maximum authorized term was previously imposed); or revoke the term of supervised release. 18 U.S.C. § 3583(e)(2) and (3).

If the court revokes supervised release, the maximum term of imprisonment upon revocation is 24 months. 18 U.S.C. § 3583(e)(3).

USSG Provisions: The allegations (failure to reside in RRC and failure to follow instructions of probation officer) constitute Grade C violations. USSG §7B1.1(a)(3), p.s.

Upon a finding of a Grade C violation the court shall revoke supervised release. USSG §7B1.3(a)(1), p.s.

A Grade A violation with a Criminal History Category I (determined at the time of sentencing) establishes an **imprisonment range of 3 to 9 months.** USSG § 7B1.4, p.s.

REIMPOSITION OF SUPERVISED RELEASE

If supervised release is revoked and the offender is required to serve a term of imprisonment, the court can reimpose supervised release upon release from custody. The length of such a term shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment imposed upon revocation. 18 U.S.C. § 3583(h).

In this case, the court has the authority to reimpose a term of 34 month(s) supervised release, less any term of imprisonment imposed upon revocation. The court has imposed an aggregate of 2 months' custody in this case. 18 U.S.C. § 3583(b).

JUSTIFICATION FOR BENCH WARRANT

Mr. Gonzalez absconded from the Court-ordered sanction of an RRC placement stemming from prior violation conduct. Also, he reportedly has an outstanding bench warrant issued from Los Angeles County Superior Court.

RECOMMENDATION/JUSTIFICATION

Despite the orders of the Court, Mr. Gonzalez has taken it upon himself to dictate the conditions of his supervised release. He indicated to his supervising probation officer that the Court's order (placement in an RRC), was not going to "work for him." The offender also stated that he would rather serve a custodial sanction, with no supervised release, than follow the Court's orders.

The custodial guideline range is three to nine months. Given the information above, it is recommended that Mr. Gonzalez be sentenced to a six month term of custody, with no term of supervised release to follow.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: June 18, 2015

Respectfully submitted:
DAVID J. SULTZBAUGH
CHIEF PROBATION OFFICER

by

Tim Noggle
U.S. Probation Officer
(619) 557-6764

Reviewed and approved:

Sean Quintal
Supervising U.S. Probation Officer

PROB 12CW(d)
03/06

June 18, 2015

EXPANDED VIOLATION WORKSHEET

1. **Defendant:** Gonzalez, Jesus

2. **Docket No.** (Year-Sequence-Defendant No.): 11CR02164-002-AJB

3. **List Each Violation and Determine the Applicable Grade** (*See* USSG § 7B1.1):

Violation(s)	**Grade**
Failiure to reside in Residential Reentry Center	C
Failure to follow instructions of probation officer	C

4. **Most Serious Grade of Violation** (*See* USSG § 7B1.1(b)) [C]

5. **Criminal History Category** (*See* USSG § 7B1.4(a)) [I]

6. **Statutory Maximum Term** (*Custody*) (*See* 18 U.S.C. § 3583(e)(3))
Upon finding of a violation, the court may modify the conditions of supervision; extend the term if less than the maximum authorized term was previously imposed); or revoke the term of supervised release. If the court revokes supervised release, the maximum term of imprisonment upon revocation is: [24 months]

7. **Range of Imprisonment** (*Custody*) (See USSG § 7B1.4(a))
A Grade B violation with a Criminal History Category I establishes an imprisonment range of: [3-9 months]

8. **Statutory Maximum Term** (*Supervised Release*) (See 18 U.S.C. § 3583(b))

If supervised release is revoked and a term of imprisonment is imposed that is less than the maximum term of imprisonment imposable upon revocation, the court can reimpose supervised release upon release from custody. The length of such a term shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of imprisonment upon revocation. In this case, the court has the authority to reimpose a term of: [34 months]

9. **Recommendation:** [6 months custody, consecutive to any other sentence being served. *See USSG § 7B1.3(f)*- w/ no supervised release to follow]

THE COURT ORDERS:

__✓__ A NO-BAIL BENCH WARRANT BE ISSUED BASED UPON A FINDING OF PROBABLE CUASE TO BRING THE OFFENDER BEFORE THE COURT TO SHOW CAUSE WHY SUPERVISED RELEASE SHOULD NOT BE REVOKED FOR THE ALLEGED VIOLATIONS.

______ Other ____

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[signature]
The Honorable Anthony J. Battaglia
U.S. Magistrate Judge

6/19/15
Date